

**§ 10.251 Applicability.**

Title XXXI of Public Law 107-210 (116 Stat. 933), entitled the Andean Trade Promotion and Drug Eradication Act (ATPDEA), amended sections 202, 203, 204, and 208 of the Andean Trade Preference Act (the ATPA, 19 U.S.C. 3201-3206) to authorize the President to extend additional trade benefits to ATPA beneficiary countries that have been designated as ATPDEA beneficiary countries. Sections 204(b)(1) and (b)(4) of the ATPA (19 U.S.C. 3203(b)(1) and (b)(4)) provide for the preferential treatment of certain non-textile articles that were not entitled to duty-free treatment under the ATPA prior to enactment of the ATPDEA. The provisions of §§10.251-10.257 of this part set forth the legal requirements and procedures that apply for purposes of obtaining preferential treatment pursuant to ATPA sections 204(b)(1) and (b)(4).

**§ 10.252 Definitions.**

When used in §§10.251 through 10.257, the following terms have the meanings indicated:

*ATPA.* “ATPA” means the Andean Trade Preference Act, 19 U.S.C. 3201-3206.

*ATPDEA beneficiary country.* “ATPDEA beneficiary country” means a “beneficiary country” as defined in §10.202(a) for purposes of the ATPA which the President also has designated as a beneficiary country for purposes of preferential treatment of products under 19 U.S.C. 3203(b)(1) and (b)(4) and which has been the subject of a finding by the President or his designee, published in the FEDERAL REGISTER, that the beneficiary country has satisfied the requirements of 19 U.S.C. 3203(b)(5)(A)(ii).

*ATPDEA beneficiary country vessel.* “ATPDEA beneficiary country vessel” means a vessel:

- (a) Which is registered or recorded in an ATPDEA beneficiary country;
- (b) Which sails under the flag of an ATPDEA beneficiary country;
- (c) Which is at least 75 percent owned by nationals of an ATPDEA beneficiary country or by a company having its principal place of business in an ATPDEA beneficiary country, of which the manager or managers, chairman of the board of directors or of the super-

visory board, and the majority of the members of those boards are nationals of an ATPDEA beneficiary country and of which, in the case of a company, at least 50 percent of the capital is owned by an ATPDEA beneficiary country or by public bodies or nationals of an ATPDEA beneficiary country;

(d) Of which the master and officers are nationals of an ATPDEA beneficiary country; and

(e) Of which at least 75 percent of the crew are nationals of an ATPDEA beneficiary country.

*HTSUS.* “HTSUS” means the Harmonized Tariff Schedule of the United States.

*Preferential treatment.* “Preferential treatment” means entry, or withdrawal from warehouse for consumption, in the customs territory of the United States free of duty and free of any quantitative restrictions in the case of tuna described in §10.253(a)(1) and free of duty in the case of any article described in §10.253(a)(2).

*United States vessel.* “United States vessel” means either: a vessel having a certificate of documentation with a fishery endorsement under chapter 121 of title 46 of the United States Code; or a vessel that is documented under the laws of the United States and for which a license has been issued pursuant to section 9 of the South Pacific Tuna Act of 1988.

[ T.D. 03-16, 68 FR 14497, Mar. 25, 2003; 68 FR 67349, Dec. 1, 2003, as amended by CBP Dec. 06-21, 71 FR 44583, Aug. 7, 2006]

**§ 10.253 Articles eligible for preferential treatment.**

(a) *General.* Preferential treatment applies to any of the following articles, provided that the article in question is imported directly into the customs territory of the United States from an ATPDEA beneficiary country within the meaning of paragraph (b) of this section:

- (1) Tuna that is harvested by United States vessels or ATPDEA beneficiary country vessels, that is prepared or preserved in any manner, in an ATPDEA beneficiary country, in foil or other flexible airtight containers weighing with their contents not more than 6.8 kilograms each; and